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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,626	08/29/2003	Brian Sundberg	SUMPT25	1033
49691	7590	09/28/2005		
IP STRATEGIES 12 1/2 WALL STREET SUITE I ASHEVILLE, NC 28801			EXAMINER LE, HUYEN D	
			ART UNIT 3751	PAPER NUMBER

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/652,626

Applicant(s)

SUNDBERG, BRIAN

Examiner

Huyen Le

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-31 and 39-47 is/are rejected.
- 7) ☒ Claim(s) 9 and 32-38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the detail of the flanges of the base as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 10-12, 16, 18-24, 27-31, 39, 45 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Dubbink et al (4,295,683)

The Dubbink et al reference discloses a support apparatus 32 comprising a base 34; a frame 50 attached to the base 34, wherein the frame 50 has an upper frame portion 52, a lower frame portion 54, and a brace portion 74; and a cover 86 removably attached to the frame 50, wherein the cover 86 has an indented shape for supporting a human body.

Regarding claim 2, the base 34 includes an upper surface and an underside, wherein a surface area 36 of the underside an index of sliding friction that is greater than an index of sliding action of the upper surface.

Regarding claim 3, the base 34 has at least one vertical perforation (between members 38,48).

Regarding claim 4, at least part of the frame is removably attached to the base.

Regarding claim 5, the base 34 includes a front base portion 44 and a rear base portion 48, and the brace portion 74 of the frame is attached to the rear base portion 48 and to the upper frame portion 52.

Regarding claim 10, the base 34 includes a front base portion 44 and a rear base portion 48, and the lower frame portion 54 is pivotally attached to the front base portion 44 (via member 72).

Regarding claim 11, the apparatus comprises first and second junction members 128 (Fig. 22); wherein the upper frame portion 52 includes a top frame portion and first and second bottom frame portions (below member 128), the top frame portion 52 is pivotally connected to the first and second bottom frame portions via the respective first and second junction members 128, the base 34 includes a front base portion 34 and a rear base portion 48, and the first and second bottom frame portions are coupled to the front base portion 44 (via members 42 and 46).

Regarding claim 12, the cover 86 includes fabric.

Regarding claim 16, at least part of the cover 86 has a contour shape (near the upper member 52).

Regarding claim 18, the Dubbink et al reference shows an apparatus comprising a base 34 having a peripheral structure and an inner aperture, a fabric frame 50 including a first plane 50 and a second plane 98 wherein the fabric frame is coupled to the base at an angle, a frame support 74 coupled to the base 34 and to the fabric frame 50, and a fabric cover 86 is removably attached to the fabric frame 50.

Regarding claim 19, the fabric frame 50 comprises first and second U-shaped pieces 54, 52 defining the respective first and second planes.

Regarding claim 20, the first U-shaped piece 54 pivotally attached to the base 34 (via rods 72).

Regarding claim 21, the base 34 includes flange 70 supporting the first U-shaped piece 44 at a front angle with respect to the base 34.

Regarding claim 22, the straight ends of the second U-shaped piece 22 are coupled to the base 40,42,48 (via member 12).

Regarding claim 23, the base 34 includes at least one footing 46 that couples to the second U-shaped piece 52 at a rear angle with respect to the base.

Regarding claim 24, the frame support 74 is coupled to the second U-shaped piece 52.

Regarding claim 27, fabric frame 50 comprises a first U-shaped piece 54, a second U-shaped piece 52, first and second spanner pieces 76, wherein the first U-shaped piece 54 defines the first plane, and the first and second spanner pieces 76 are coupled to extend the second U-shaped piece 52 and together with the second U-shaped piece 52 define the second plane.

Regarding claim 28, the first U-shaped piece 54 is pivotally attached to the base 34 (via 72).

Regarding claim 29, the base 34 includes at least one flange 70 supporting the first U-shaped piece at a front angle with respect to the base 34.

Regarding claim 30, the first and second spanners 76 are coupled to the base 34 (via members 42).

Regarding claim 31, the base 34 includes first and second footings 46 that couple the respective first and second spanners 76 at a rear angle with respect to the base.

Regarding claim 39, the fabric cover 86 includes at least one pocket portion 92 that fits over part of the frame 50.

Regarding claim 40, the fabric cover 86 includes a first pocketed portion 90 that fits over the front end 54.

Regarding claim 45, the fabric cover includes at least one mesh panel (netting, col. 1, lines 17-17).

Regarding claim 46, the fabric cover 86 includes at least one main mesh panel 9 and two side mesh panels (on the sides of member 96 in Fig. 4) connected to the main mesh panel 98 defining an interior volume of the fabric cover 86 having an upper edge.

4. Claims 1, 3-8, 10-12, 16-31, 39, 40-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Kowalczyk (2,988,136).

The Kowalczyk reference discloses a support apparatus comprising a base 20; a frame 25,26 attached to the base 48, wherein the frame 25,26 has an upper frame portion 26, a lower frame portion 25, and a brace portion 33; and a cover 31 removably attached to the frame 25,26, wherein the cover 24 has an indented shape for supporting a human body.

Regarding claim 3, the base 20 has at least one vertical perforation.

Regarding claim 4, at least part of the frame 25,26 is removably attached to the base 20.

Regarding claim 5, the base 20 includes a front base portion 21 and a rear base portion 22, and the brace portion 33 of the frame is attached to the rear base portion 22 and to the upper frame portion 26.

Regarding claim 6, The apparatus comprises at least one junction member 36, wherein the brace portion 33 of the frame and the upper frame portion 26 are coupled together by the at least one junction member 36.

Regarding claim 7, the brace portion 33 of the frame is pivotally attached to the rear base portion 22 and to the at least one junction member 36, the at least one junction member 36 is slidably attached to the upper frame portion 29, and the upper frame portion 29 is pivotally attached to the front base portion 21 (via a member 37).

Regarding claim 8, the lower frame portion 25 is pivotally attached to the front base portion 21 (via member 35).

Regarding claim 10, the base 20 includes a front base portion 21 and a rear base portion 22, and the lower frame portion 25 is pivotally attached to the front base portion 21 (via member 33).

Regarding claim 11, the apparatus comprises first and second junction members 30; wherein the upper frame portion 26 includes a top frame portion 29 and first and second bottom frame portions 37 (first members 37 attached to the front base portion 21 at 38), the top frame portion 29 is pivotally connected to the first and second bottom frame portions 37 via the respective first and second junction members 30, the base 20 includes a front base portion 21 and a rear base portion 22, and the first and second bottom frame portions 37 are coupled to the front base portion 21.

Regarding claim 12, the cover includes fabric.

Regarding claim 16, at least part of the cover 31 (at the corners) has a contoured shape.



Regarding claim 17, the cover 31 has a lowest portion that is positioned at a height that is higher than a height of the upper surface of the base 20.

Regarding claim 18, the apparatus comprises a base 20 having a peripheral structure and an inner aperture, a fabric frame 25,26 including a first plane 25 and a second plane 26 wherein the fabric frame 25,26 is coupled to the base 20 at an angle, a frame support 33 coupled to the base 20 and to the fabric frame 25,26, and a fabric cover 31 is removably attached to the fabric frame 25,26.

Regarding claim 19, the fabric frame 25,26 comprises first and second U-shaped pieces 27, 29 defining the respective first and second planes.

Regarding claim 20, the first U-shaped piece 27 pivotally attached to the base 20.

Regarding claims 21 and 29, the base 20 includes flange 35 supporting the first U-shaped piece 27 at a front angle with respect to the base 20.

Regarding claim 22, the straight ends of the second U-shaped piece 29 are coupled to the base 20.

Regarding claim 23, the base 20 includes at least one footing 37 that couples to the second U-shaped piece 29 at a rear angle with respect to the base 20.

Regarding claim 24, the frame support 33 is coupled to the second U-shaped piece 29.

Regarding claim 25, the frame support 33 is pivotally coupled to the base 30 (via member 35), and is slidably coupled to the second U-shaped piece 29 (via member 33B).

Regarding claim 26, the frame support 33 is pivotally coupled to the second U-shaped piece 29 (via member 36).

Regarding claim 37, the fabric frame comprises a first U-shaped piece 27, a second U-shaped piece 29, and first and second spanner pieces 37, wherein the first U-shaped piece 27 defines the first plane, and the first and second spanner pieces 37 are coupled to extend the second U-shaped piece 29 and together with the second U-shaped piece 39 define the second plane.

Regarding claim 28, the first U-shaped piece 27 is pivotally attached to the base 20.

Regarding claim 30, the first and second spanners 37 are coupled to the base 20.

Regarding claim 31, the base 20 includes flat members (at 38) constituting first and second footings that couple the respective first and second spanners 37 at a rear angle with respect to the base 20.

Regarding claim 39, the fabric cover 31 includes at least one pocket portion that fits over part of the frame 25.

Regarding claim 40, the fabric cover 31 includes a first pocketed portion that fits over front end 27 of the fabric frame 25,26, and a second pocketed portion that fits over a back end 29 of the fabric frame 25,26 (col. 5, lines 10-12).

Regarding claim 41, the second pocket portion includes a headrest (near the top end of frame 26).

Regarding claim 42, the headrest is contoured (at the corners).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dubbink et al (4,295,683) in view of Fujimoto et al (5,520,435).

The Dubbink et al reference discloses a support apparatus as described above.

Although the Dubbink et al reference does not disclose that the cover includes an elastic material, attention is directed to the Fujimoto et al reference which discloses a chair having a cover made of an elastic material.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made provide the support apparatus of Dubbink et al with a cover made of an elastic material in view of the teaching of Fujimoto et al reference, wherein doing so would be a matter of obvious design choice.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dubbink et al (4,295,683) in view of Graff (6,616,225).

The Dubbink et al reference discloses a support apparatus as described above.

Although the Dubbink et al reference does not disclose that the cover include a padded material, attention is directed to the Chen et al reference which discloses a chair having cover having a headrest pouch 150 made of a padded material (Fig. 15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to employ a cover with a headrest made of a padded material on the Dubbink et al support apparatus in view of the teaching of Graff for providing comfortable support to the head of a user.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dubbink et al (4,295,683) in view of Slood (6,217,116).

The Dubbink et al reference discloses a support apparatus as described above.

Although the Dubbink et al reference does not disclose that the cover includes a part being inflatable, attention is directed to the Slood reference which discloses a chair having a cover including an inflatable headrest 22.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide an inflatable headrest on the Dubbink et al support apparatus in view of the teaching of the Slood reference for providing comfort to the head of a user.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kowalczyk (2,988,136) in view of Dubbink et al (4,295,683).

The Kowalczyk reference discloses a support apparatus as described above.

Although Kowalczyk does not disclose that the surface are of the underside of the base has an index of sliding friction that greater than the an index sliding friction of the upper surface, attention is directed to the Dubbink et al reference which discloses another support apparatus having suction cups mounted to the underside of the base of apparatus.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to employ suction cups on the supporting apparatus of Kowalczyk in view of the teaching of the Dubbink et al reference for increasing frictional engagement between the base of the supporting apparatus and the floor to prevent the apparatus from sliding.

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kowalczyk (2,988,136) in view of Fujimoto et al (5,520,435).

The Kowalczyk reference discloses a support apparatus as described above.

Although Kowalczyk does not disclose that the cover includes an elastic material, attention is directed to the Fujimoto et al reference which discloses a chair having a cover made of an elastic material.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made provide the support apparatus of Kowalczyk with a cover made of an elastic material in view of the teaching of Fujimoto et al reference, wherein doing so would be a matter of obvious design choice.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kowalczyk (2,988,136) in view of Chen et al (6,341,816).

The Kowalczyk reference discloses a support apparatus as described above.

Although Kowalczyk does not disclose that the cover include a padded material, attention is directed to the Chen et al reference which discloses a chair having cover made of a padded material 101.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to employ a cover made of a padded material on the Kowalczyk support apparatus in view of the teaching of Chen et al for providing extra comfort to the backrest.

12. Claims 15 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kowalczyk (2,988,136) in view of Slood (6,217,116).

The Kowalczyk reference discloses a support apparatus as described above.

Although the Kowalczyk reference does not disclose that the cover includes a part being inflatable, attention is directed to the Slood reference which discloses a chair having a cover including an inflatable headrest 22.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide an inflatable headrest on the Kowalczyk support apparatus in view of the teaching of the Slood reference for providing comfort to the head of a user.

13. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kowalczyk (2,988,136) in view of Graff (6,616,225).

The Kowalczyk reference discloses a support apparatus as described above.

Although the Kowalczyk reference does not disclose that the cover include a padded material, attention is directed to the Chen et al reference which discloses a chair having cover having a headrest pouch 150 made of a padded material (Fig. 15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to employ a cover with a headrest made of a padded

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material on the Kowalczyk support apparatus in view of the teaching of Graff for providing comfortable support to the head of a user.

14. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kowalczyk (2,988,136) in view of Rawolle (4,188,678)

The Kowalczyk reference discloses a support apparatus as described above.

Although Kowalczyk does not specifically disclose that the fabric cover 31 is made of a meshing material, attention is directed to the Rawolle reference which teaches the cover 9 of the chair made of a meshing material.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to employ a cover made of a mesh material on the chair of Kowalczyk in view of the teaching of the Rawolle reference, wherein doing so would be a matter of obvious design choice depending on the suitability of the intended use of the chair.

15. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kowalczyk (2,988,136) in view of Livingston et al (6,250,712).

The Kowalczyk reference discloses a support apparatus as described above.

Although Kowalczyk does not disclose that the cover includes a part of upper edge made of a foam material, attention is directed to the Livingston et al reference discloses a chair comprising a cover 28 having a border 38 made of foam material 40.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made employ a foam material 40 around an upper edge of the

cover of Kowalczyk in view of the teaching of the Livingston et al reference for providing comfort to a user.

ber 22 (left of member 56 in Fig. 7) corresponding to the first and second spanner pieces, wherein the first U-shaped piece 12 defines the first plane, and the first and second spanner pieces are coupled to extend the second U-shaped piece and together with the second U-shaped piece 22 define the second plane.

Regarding claim 30, the first and second spanners are coupled to the base 40,42,48 (via member 12).

Regarding claim 31, the base 40,42,8 includes first and second footings 48 that couple the respective first and second spanners (two lower end portions of 22, left of member 56) at a rear angle with respect to the base.

Regarding claim 32, the frame support couples the first and second spanners to the second U-shaped piece 22.

Regarding claim 46, the fabric cover 24 includes at least one main mesh panel (middle portion between members 60 shown in Fig. 2) and two side mesh panels (one on the left of the first member 60, one on the right of the second member 60 in Fig. 2) connected to the main mesh panel, defining an interior volume of the fabric cover having an upper edge.



***Allowable Subject Matter***

16. Claims 9, 32-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chien, Welsh, Jr., Riback, Bishop et al, Colby, Chen, Huang, Tai et al, Wilson show body supporting devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Huyen Le*  
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HL

September 26, 2005